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REMARKS

Claims 1-29 and 44-64 are currently pending in the application and the Office Action rejected Claims 1-29 and 44-64. By the foregoing amendments, Applicants cancelled Claims 1-29 and 44-64 without prejudice and added new Claims 65-88 to further clarify the claimed invention and/or expedite receiving a notice of allowance. Pursuant to 37 C.F.R. §1.118, no new matter is introduced by these amendments. Applicants believe that Claims 65-88 are now in condition for allowance.

Please note that Applicants' remarks are presented in the order in which the issues were raised in the Office Action for the convenience and reference of the Examiner. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants understanding and discussion of the references is consistent with the Examiner. Further, the following remarks are not intended to be an exhaustive enumeration of the distinctions between any particular reference and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited reference.

Response to the Objection to the Drawings

The Examiner objected to the drawings under 37 CFR § 1.83(a) because the drawing must show every feature of the invention. In particular, the Examiner states the following features must be shown or cancelled from the claims:

Claim 17: "shim insertable underneath"

Claim 59: "the elongated support member disposed towards the first set of openings and away from the second set of openings"

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Applicants respectfully traverse this rejection. In order to expedite receiving a Notice of Allowance, Applicants cancelled Claims 17 and 59. Applicants, however, believe that the limitation “the elongated support member disposed towards the first set of openings and away from the second set of openings” is clearly shown in the drawings in accordance with 37 CFR § 1.83(a). For example, as shown in Figure 2, the elongated support member (16) is shown as being disposed towards the first set of openings (70) and away from the second set of openings (72).

Response to the Section 112 Rejection

The Office Action rejected Claims 1-29 and 44-64 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Office Action asserts that various claim terms are vague and indefinite because one of ordinary skill in the art would not be able to clearly determine the metes and bounds of the invention based on the vague claim terms and the existing specification:

Claim 1: “a length of the front span” and “a length of the rear span”

Claim 8: “a length selected to permit pivotal motion” and “without substantial vertical motion”

Claim 9: “nearer the front side”

Claims 11, 19: “to resist bending of the front span”

Claim 56: “an upper portion that is sized and configured to contact the base to help prevent deflection”

Claim 17: “at least one shim insertable underneath the front side”

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Claim 18: "disposed between the retaining members"

Claim 45: "a distance separating the second set" and "being smaller than the distance separating the second set"

Claims 46, 19: "to resist movement"

Claim 47: "disposed toward the first set of openings" and "away from the second set of openings in the base"

Claim 48: "being sized and configured to contact the base to help prevent deflection"

Claim 49: "sized and configured to contact a lower surface of the base" and "prevent deflection of the base"

Claim 50: "sized and configured to contact an upper surface of the base" and "prevent deflection of the base"

Claim 51: "allow an intermediate support to be inserted through the opening"

Claim 52: "sized and configured to"

Claim 53: "without substantial vertical motion"

Claim 56: "upper portion that is sized and configured to contact the base to help prevent deflection"

Claim 57: "the front portion of the base" and "the rear portion of the base"

Claim 58: "a distance" and "being smaller than the distance"

Claim 60: "allow the basketball goal assembly to be rotated from a generally horizontal position to a generally vertical position to allow the assembly to be connected"

Claim 64: "the front portion of the base to help resist movement"

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Applicant respectfully traverses this rejection because these claim terms are not vague and indefinite under 35 U.S.C. § 112, second paragraph. The Board of Patent Appeals and Interferences stated:

In rejecting a claim under the second paragraph of 35 U.S.C. § 112, it is incumbent on the examiner to establish that one of ordinary skill in the pertinent art, when reading the claims in light of the supporting specification, would not have been able to ascertain with a reasonable degree of precision and particularity the particular area set out and circumscribed by the claims.

Ex parte Wu, 10 USPQ2d 2031, 2033 (B.P.A.I. 1989) (emphasis added). The Federal Circuit has similarly stated that the law is clear that if the claims, read in light of the specification, reasonably apprise those skilled in the art of the use and scope of the invention, and if the language is as precise as the subject matter pertains, the claims are definite under Section 112, second paragraph. *Shatterproof Glass Corp. v. Libbey-Owens Ford Co.*, 758 F.2d 613, 624, 225 USPQ 634, 641 (Fed. Cir.), *cert. dismissed*, 474 U.S. 976 (1985) (emphasis added).

In this case, the claims set out and define the subject matter with a reasonable degree of particularity. For example, the Office Action stated that Claim 1 was indefinite because of the phrases “a length of the front span” and “a length of the rear span.” The specification states “[t]he front span 73 has a length 74 defined by the distance between the slots 70.” See, e.g., page 8, lines 7-8. The specification also states “[t]he base plate 32 may also have a rear span 79 located generally between the holes 70 rearward of the first end 17 of the pole 16.” See, e.g., page 8, lines 15-16. Thus, Claim 1 is not vague and indefinite because it particularly points out and distinctly claims the invention.

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Additionally, it is well established that functional limitations may be used in the claims and functional language does not, in and of itself, render a claim improper or indefinite. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226, 229 (C.C.P.A. 1971). For example, the Office Action rejected Claim 8 by asserting that the phrases “a length selected to permit pivotal motion” and “without substantial vertical motion” were indefinite. One skilled in the art, however, would understand that this claim language is precise and definite enough to provide a clear indication of the scope of the subject matter of the claim. That is, one skilled in the art would recognize that the claim limitations require that the length permits pivotal motion and that this motion occurs without substantial vertical motion.

Further, specific dimensions and size limitations do not have to be included in the claims. In contrast, the claims merely have to set forth reasonable precision in delineating the subject matter of the claims. The Federal Circuit has stated that “[t]he amount of detail required to be included in claims depends on the particular invention and the prior art, and is not to be viewed in the abstract but in conjunction with whether the specification is in compliance with the first paragraph of section 112.” *Shatterproof Glass Corp. v. Libbey-Owens Ford Co.*, 758 F.2d 613, 624, 225 USPQ 634, 641 (Fed. Cir.), cert. dismissed, 474 U.S. 976 (1985). For example, the Office Action rejected Claim 9 by asserting that the phrase “nearer the front side” is indefinite. One skilled in the art, however, would understand that the phrase “nearer the front side” simply means that it has to be nearer or closer to the front side. Thus, the scope of the subject matter embraced by this claim language is clear and it defines the claimed invention with a reasonable degree of clarity and precision.

The Office Action also stated that the phrase “an upper portion that is sized and configured to contact the base to help prevent deflection” is indefinite. One of ordinary skill in

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the art, however, when reading the claim in light of the supporting specification, would be able to ascertain the meaning of this claim with a reasonable degree of precision and particularity. For example, one skilled in the art would immediately understand that the upper portion must be sized and configured to contact the base. In addition, one skilled in the art would immediately understand that the upper portion is sized and configured to contact the base to help prevent deflection. Thus, the claim language is clear to one of ordinary skill in the art.

In summary, Applicants assert that the claim language particularly points out and distinctly claims the subject matter which Applicants regards as the invention in accordance with Section 112, second paragraph. Because the claim language defines the claimed invention, when read in light of the specification, with a reasonable degree of precision and particularity, Applicants believe that this Section 112 rejection is in appropriate. In order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicants cancelled Claims 1-29 and 44-64.

Response to the First Rejection under 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a)

The Office Action rejected Claims 25-29 under 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a) as being anticipated by or, in the alternative, as obvious over United States Patent No. 3,311,333 issued to Galloway. The Office Action contends that the Galloway patent discloses a plurality of retaining members, a base plate, elongated and circular holes (Figs. 1 and 3). The Office Action concludes that it would have been obvious to one of ordinary skill in the art of column and post design at the time of the invention to have removed the hinge in order to lower the cost of the device and permit less precise placement of the support anchors.

As to claim 26: Galloway discloses two front and two rear holes (Fig. 1).

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As to claims 27 and 28: Galloway discloses a template with a plurality of holes (Fig. 1).

As to claim 29: Galloway discloses a plate with holes such that a portion of the base plate is able to rest on the template (Fig. 1).

Applicant respectfully traverses this rejection because the Galloway patent does not teach, suggest or disclose each and every element of Claims 25-29. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claims 25-29.

Response to the Second Rejection under 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a)

The Office Action rejected Claims 56, 57, 59, 62 and 64 under 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a) as being anticipated by or, in the alternative, as obvious over United States Patent No. 5,913,778 issued to Hying, et al. The Office Action contends that the Hying patent discloses a retaining assembly, a first and second set of retaining members and an intermediate support member (Figs. 2-4). The Office Action asserts that it would have been obvious to one of ordinary skill in the art to have selected any one of several equivalent means of support and any one of several equivalent positions on the base plate based on design choices and manufacturing cost considerations.

As to claims 57 and 62: Hying discloses two sets of openings generally aligned with the openings in the base (Figs. 2-4).

As to claims 59 and 64: No criticality is seen in the placement of the goal assembly support member. It is well known in the art to place the pole in various places on the base plate. It would have been obvious to one of ordinary skill in the art of column and post design at the

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time of the invention to have selected any one of several various equivalent pole placement designs based on manufacturing costs and/or design choices.

Applicant respectfully traverses this rejection because the Hying patent does not teach, suggest or disclose each and every element of Claims 56, 57, 59, 62 and 64. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claims 56, 57, 59, 62 and 64.

Response to the First Section 103(a) Rejection

The Office Action rejected Claims 58 and 61 under 35 U.S.C. § 103(a) as being unpatentable over the Hying patent in view of Garhauer reference. The Office Action asserts that the Hying patent discloses the elements of Claim 58, but the Office Action acknowledges that the Hying patent does not clearly disclose a different distance between the openings of the first and second set. The Office Action asserts that the Garhauer reference discloses a pole base plate where there is a difference in the distance separating the holes for the first and second openings. The Office Action asserts that the use of various shapes for bases for poles is well known in the art. The Office Action also asserts that the Garhauer reference discloses a pole base plate where there is a difference in the distance separating the holes for the first and second openings. The Office Action concludes that it would have been obvious to one of ordinary skill in the art of column and post design at the time of the invention to have selected any one of several various equivalent base designs based on manufacturing costs and/or design choices.

Applicant respectfully traverses this rejection because the Hying patent and Garhauer reference, either alone or in combination, do not teach, suggest or disclose each and every

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element of Claims 58 or 61. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claims 58 and 61.

Response to the Second Section 103(a) Rejection

The Office Action rejected Claim 60 under 35 U.S.C. § 103(a) as being unpatentable over the prior art as applied to Claim 56 in view of the Galloway patent. The Office Action acknowledges that the cited art does not clearly disclose the use of a slotted hole. The Office Action, however, asserts that the Galloway patent discloses the use of a slotted hole. The Office Action also asserts that the use of slotted holes is well known in the art. The Office Action concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to have employed a slotted hole in order to permit an easy adjustment means if the base plate is not accurately positioned.

Applicant respectfully traverses this rejection because the Galloway patent does not teach, suggest or disclose each and every element of Claim 60. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claim 60.

Response to the Third Section 103(a) Rejection

The Office Action rejected Claim 63 under 35 U.S.C. § 103(a) as being unpatentable over the cited art for an unidentified claim and apparently in view of the Hying patent and Garhauer reference. The Office Action asserts that the Hying patent discloses the elements of claim 58, however, it does not clearly disclose a different distance between the openings of the first and second set. The Office Action contends that the Garhauer reference discloses a pole

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base plate where there is a difference in the distance separating the holes for the first and second openings. The Office Action also asserts that the use of various shapes for bases for poles is well known in the art. In addition, the Office Action asserts that the Garhauer reference discloses a pole base plate where there is a difference in the distance separating the holes for the first and second openings. The Office Action concludes that it would have been obvious to one of ordinary skill in the art of column and post design at the time of the invention to have selected any one of several various equivalent base designs based on manufacturing costs and/or design choices.

Applicant respectfully traverses this rejection because the Hying patent and Garhauer reference, either alone or in combination, do not teach, suggest or disclose each and every element of Claim 63. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claim 63.

Response to the Fourth Section 103(a) Rejection

The Office Action rejected Claims 1-3, 6-7, 9, 20-24, 44-47 and 55 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent no. 5,156,395 issued to Smith in view of the Garhauer reference. The Office Action states Smith patent discloses the elements of Claim 1, although it does not clearly disclose a length of front span shorter than a length of rear span. The Office Action asserts that the Garhauer reference discloses a pole base plate where the length of the front span is shorter than the length of a rear span. The Office Action asserts that the use of various shapes for bases for poles is well known in the art. The Office Action also asserts that the Garhauer reference discloses a length of a front span shorter than a length of a rear span. The Office Action concludes that it would have been obvious to one of ordinary skill in the art of

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column and post design at the time of the invention to have selected any one of several various equivalent base designs based on manufacturing costs and/or design choices.

As to claims 2 and 3: Smith discloses a plurality of nuts arranged in a substantially rectangular fashion (Figs. 1 and 8).

As to claims 6, 7, 21, 22, 45, and 55: Garhauer discloses a trapezoidal configuration and shape (Page 2, Picture 1). It would have been obvious to one of ordinary skill in the art of column and post design at the time of the invention to have selected any one of several various equivalent base designs based on manufacturing costs and/or design choices.

As to claims 9, 23, 46, and 47: No criticality is seen in the placement of the support member. It is well known in the art to place the pole in various places on the base plate. It would have been obvious to one of ordinary skill in the art of column and post design at the time of the invention to have selected any one of several various equivalent pole placement designs based on manufacturing costs and/or design choices.

As to claim 24: Smith discloses a plurality of intermediate nuts (Fig. 1).

As to claim 54: Smith discloses a first, second, and a third set of nuts connected to the retaining members (Fig. 1).

As to claims 20 and 44: See claim 1 rejection.

Applicant respectfully traverses this rejection because neither the Smith patent or the Garhauer reference, either alone or in combination, teach, suggest or disclose each and every element of Claims 1-3, 6-7, 9, 20-24, 44-47 and 55. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claims 1-3, 6-7, 9, 20-24, 44-47 and 55.

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Response to the Fifth Section 103(a) Rejection

The Office Action rejected Claims 4, 48 and 49-52 under 35 U.S.C. § 103(a) as being unpatentable over the prior art as applied to claim 1 in view of the Hying patent. The Office Action acknowledges that the cited art does not clearly disclose the use of an intermediate support member. The Office Action, however, asserts that the Hying patent discloses the use of an intermediate support member (Fig. 2). The Office Action concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the support member of the Hying patent in order to make the goal more securely attached for safety reasons.

As to claims 51 and 52: Hying discloses an opening. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the support member and opening of Hying in order to make the goal more securely attached for safety reasons.

Applicant respectfully traverses this rejection because the Hying patent does not teach, suggest or disclose each and every element of Claims 4, 48 and 49-52. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claims 4, 48 and 49-52.

Response to the Sixth Section 103(a) Rejection

The Office Action rejected Claims 8 and 53 under 35 U.S.C. § 103(a) as being unpatentable over the prior art as applied to claim 1 in view of the Galloway patent. The Office Action acknowledges that the cited art does not clearly disclose the use of a slotted hole. The Office Action, however, asserts that the Galloway patent discloses the use of a slotted hole. The Office Action also asserts that the use of slotted holes is well known in the art. The Office

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Action concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to have employed a slotted hole in order to permit an easy adjustment means if the base plate is not accurately positioned.

Applicant respectfully traverses this rejection because the Galloway patent does not teach, suggest or disclose each and every element of Claims 8 and 53. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claims 8 and 53.

Response to the Seventh Section 103(a) Rejection

The Office Action rejected Claim 10 under 35 U.S.C. § 103(a) as being unpatentable over the prior art as applied to claim 1 in view of Official Notice. The Office Action stated that Official Notice is taken that it is well known in the art to add gussets to a base and pole. The Office Action asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to have employed a plurality of gussets in order to strengthen the pole and permit a lighter weight pole to be used.

Applicant respectfully traverses this rejection because the prior art as applied to Claim 1 and the Official Notice taken by the Examiner does not teach, suggest or disclose each and every element of Claim 10. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claim 10.

Response to the Eighth Section 103(a) Rejection

The Office Action rejected Claims 11, 18, 19, and 56 under 35 U.S.C. 103(a) as being unpatentable over the Smith patent in view of the Hying patent. The Office Action asserts that

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the Smith patent discloses the elements of claim 11, however, it does not clearly disclose an intermediate support member. The Office Action asserts that the Hying discloses an intermediate support member (Figs. 2-4). The Office Action concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the intermediate support member of the Hying patent with the device of the Smith patent in order to more securely attach the goal to the base.

As to claim 18: Hying discloses an intermediate support member disposed between the retaining members (Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the intermediate support member of Hying with the device of Smith in order to more securely attach the goal to the base.

As to claim 19: Smith discloses a base plate with a plurality of holes formed proximate the rear side (Fig. 8).

As to claim 56: See base claim rejection.

Applicant respectfully traverses this rejection because neither the Hying nor Smith patents, either alone or in combination, teach, suggest or disclose each and every element of Claims 11, 18, 19, and 56. However, in order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicant canceled Claims 11, 18, 19, and 56.

New Claims

In order to clarify the claimed invention and/or expedite receiving a Notice of Allowance, Applicants added new claims 65-88. Pursuant to 37 C.F.R. §1.118, no new matter is introduced by these amendments. Applicants believe that Claims 65-88 are now in condition for allowance and are patentable over the cited references.

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Galloway Patent

The Galloway patent discloses a pole base assembly and “[a]n important feature of the present invention is that unlike previous constructions the present invention is a complete assembly adapted to tie the mounting structure directly to the anchor bolts or anchor studs which are set in the concrete pier.” Col. 1, lines 23-27. In particular, the Galloway patent discloses a base plate 12 and anchor pins 18-24 that are secured to the base plate 12 by means of a weld 31. Col. 1, lines 49-60. The Galloway patent also discloses a mounting plate 40 that is pivotally connected to the base plate 12 by the hinge pin 42 and cylinders 36, 38. Col. 2, lines 2-5.

Applicants believe that new Claims 65-88 are patentable in view of the Galloway patent. For example, Claim 65 provides “an intermediate support member including a first portion disposed between the base plate and the template, the intermediate support member including a second portion inserted through an opening in the template, the intermediate support member being adjustable to abut the lower surface of the base plate.” Thus, Claim 65 positively recites the intermediate support member includes a first portion that is disposed between the base plate and the template, a second portion that is inserted through an opening in the template, and the intermediate support member is adjustable to abut the lower surface of the base plate. The Galloway patent does not teach, suggest or disclose an intermediate support member. Accordingly, Applicants believe that at least Claims 65-72 are patentable in view of the Galloway patent.

In addition, Claim 73 provides “a first pair of openings disposed proximate the front portion of the base plate, the first pair of openings being separated by a distance; a second pair of openings disposed proximate the rear portion of the base plate, the second pair of openings being separated by a distance, the distance between the first pair of openings in the base plate being

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smaller than the distance between the second pair of openings in the base plate” and “a first pair of openings disposed proximate the front portion of the template, the first pair of openings being separated by a distance; a second pair of openings disposed proximate the rear portion of the template, the second pair of openings being separated by a distance, the distance between the first pair of openings in the template being smaller than the distance between the second pair of openings in the template.” Thus, Claim 73 positively recites that the distance between the first pair of openings in the base plate is smaller than the distance between the second pair of openings in the base plate and the distance between the first pair of openings in the template is smaller than the distance between the second pair of openings in the template. Claim 73 also provides “a support member connected to the base plate, the support member being disposed towards the front portion of the base plate and away from the rear portion of the base plate.” Therefore, Claim 73 also positively recites that the support member is disposed towards the front portion of the base plate and away from the rear portion of the base plate.

The Galloway patent, however, does not teach, suggest or disclose the distance between the first pair of openings in the base plate is smaller than the distance between the second pair of openings in the base plate; the distance between the first pair of openings in the template is smaller than the distance between the second pair of openings in the template; or that the support member is disposed towards the front portion of the base plate and away from the rear portion of the base plate. Consequently, Applicants believe that at least Claims 73-79 are patentable in view of the Galloway patent.

Claim 80 provides “an intermediate support member including a first portion and a second portion, the first portion being disposed between the template and the base plate, the second portion being disposed within an opening in the template.” As discussed above, the

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Galloway patent does not teach, suggest or disclose an intermediate support member. Therefore, Applicants believe that at least Claims 80-88 are patentable in view of the Galloway patent.

Smith Patent

The Smith patent discloses an adjustable basketball goal including a vertical column having angled corners and a beam extending up from the column. Col. 1, lines 21-24. The Smith patent also discloses a leveling mechanism to secure the column in its vertical position. The Smith patent states:

A base (70) is anchored in the ground with the upper end disposed generally at the elevation of and adjacent to the playing surface (14). Threaded studs (72) are attached to and extend up from a flange (74) at the top of the base (70). A mating flange (76) is attached to the bottom of the column (12) and includes openings disposed to receive the upper portions of the studs (72). Fasteners (78) are threaded on the studs (72) both above and below the mating flange (76). The fasteners (78) are then adjusted to position and secure the column in its vertical orientation.

Col. 2, line 61 to col. 3, line 3.

Applicants believe that new Claims 65-88 are patentable in view of the Smith patent. For example, Claim 65 provides “an intermediate support member including a first portion disposed between the base plate and the template, the intermediate support member including a second portion inserted through an opening in the template, the intermediate support member being adjustable to abut the lower surface of the base plate.” Thus, Claim 65 positively recites the intermediate support member includes a first portion that is disposed between the base plate and the template, a second portion that is inserted through an opening in the template, and the intermediate support member is adjustable to abut the lower surface of the base plate. The Smith patent does not teach, suggest or disclose an intermediate support member. Accordingly, Applicants believe that at least Claims 65-72 are patentable in view of the Smith patent.

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In addition, Claim 73 provides “a first pair of openings disposed proximate the front portion of the base plate, the first pair of openings being separated by a distance; a second pair of openings disposed proximate the rear portion of the base plate, the second pair of openings being separated by a distance, the distance between the first pair of openings in the base plate being smaller than the distance between the second pair of openings in the base plate” and “a first pair of openings disposed proximate the front portion of the template, the first pair of openings being separated by a distance; a second pair of openings disposed proximate the rear portion of the template, the second pair of openings being separated by a distance, the distance between the first pair of openings in the template being smaller than the distance between the second pair of openings in the template.” Thus, Claim 73 positively recites that the distance between the first pair of openings in the base plate is smaller than the distance between the second pair of openings in the base plate and the distance between the first pair of openings in the template is smaller than the distance between the second pair of openings in the template. Claim 73 also provides “a support member connected to the base plate, the support member being disposed towards the front portion of the base plate and away from the rear portion of the base plate.” Therefore, Claim 73 also positively recites that the support member is disposed towards the front portion of the base plate and away from the rear portion of the base plate.

The Smith patent, however, does not teach, suggest or disclose the distance between the first pair of openings in the base plate is smaller than the distance between the second pair of openings in the base plate; the distance between the first pair of openings in the template is smaller than the distance between the second pair of openings in the template; or that the support member is disposed towards the front portion of the base plate and away from the rear portion of

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the base plate. Consequently, Applicants believe that at least Claims 73-79 are patentable in view of the Smith patent.

Claim 80 provides “an intermediate support member including a first portion and a second portion, the first portion being disposed between the template and the base plate, the second portion being disposed within an opening in the template.” As discussed above, the Smith patent does not teach, suggest or disclose an intermediate support member. Therefore, Applicants believe that at least Claims 80-88 are patentable in view of the Smith patent.

Hying Patent

The Hying patent discloses a flanged mounting system for an in-ground basketball system. In particular, the Hying patent discloses a basketball mounting system for an in-ground basketball system has a flanged basketball support pole and a flanged ground sleeve receiving a portion of the pole in overlapping relationship, and the flanges are connected together by removable fasteners such as threaded bolts. See, e.g., Abstract. The Hying patent states:

Pole flange 32 is adapted to be connected to flange 34 of ground sleeve 12. In particular, as shown in FIGS. 5-6, each of the four corners of flange 32 has a clearance hole 48, 50, 52 and 54 passing there through, preferably 0.5 in diameter. As discussed in detail later, a threaded bolt 60 (FIG. 12) is passed through each of clearance holes 48, 50, 52 and 54, respectively, and then into corresponding clearance holes (discussed with reference to FIGS. 8-10) provided in flange 34 of ground sleeve 12.

Col. 6, lines 30-38 (emphasis added).

The Hying patent also discloses that the mounting system may include jacking members in the pole flange to facilitate removal of the pole from the ground sleeve. The Hying patent explains that “[t]he jacking members include members such as threaded bolts passing through

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the pole flange that, when rotated in one direction, press against the ground sleeve flange causing the pole and the ground sleeve to separate." Abstract. In greater detail, the Hying patent states:

Referring now to FIG. 12, in combination with FIGS. 5, 6, 8 and 9, jacking devices shown generally at 90 will be discussed. In particular, to remove pole 18 from ground sleeve 12, bolts 60 must be removed and pole 18 must be withdrawn along longitudinal axis 19 until pole overlap section 46 is outside of ground sleeve 12. Generally, ground sleeve 12 is left behind. However, over time, the interface between pole 18 and ground sleeve 12, in particular, pole flange 32 and ground sleeve flange 34, may attach or become fixed to each other under the pressure of basketball system 10 weighing down on pole 18 in ground sleeve 12 and/or due to corrosion or exposure to the elements. If this occurs, pole 18 cannot easily be removed from ground sleeve 12 by a consumer. To overcome this problem, jacking devices 90 in accordance with the invention can force pole 18 to move longitudinally away from ground sleeve 12 and separate these parts.

In particular, jacking devices 90 include a pair of clearance openings 92a and 92b, preferably about 0.72 inch in diameter, passing through pole flange 32 for receiving weld nuts 94a and 94b, preferably about 0.5 inches in diameter, disposed on upper surface 56 of pole flange 32 in alignment with clearance openings 92a and 92b. Clearance openings 92a and 92b and weld nuts 94a and 94b are preferably centrally disposed on opposing sides of pole 18 to distribute their force equally across the interface between pole 18 and ground sleeve 12. Ground sleeve flange 34 remains unaltered and upper surface 74 of ground sleeve flange 34 abuts lower surface 58 of pole flange 32 to cover openings 92a and 92b. A pair of bolts 96a and 96b are screwed into weld nuts 94a and 94b and extend into clearance openings 92a and 92b, respectively.

When removal of pole 18 from ground sleeve 12 is desired, bolts 96a and 96b are rotated or tightened in weld nuts 94a and 94b causing ends 98a and 98b to abut upper surface 74 of ground sleeve flange 34. As bolts 96a and 96b continue to be tightened, pole 18 is forced apart from ground sleeve 12.

Col. 8, lines 47 to col. 9, line 25 (emphasis added).

Applicants believe that Claims 65-88 are patentable in view of the Hying patent. For example, Claim 65 provides "an intermediate support member including a first portion disposed between the base plate and the template, the intermediate support member including a second portion inserted through an opening in the template, the intermediate support member being adjustable to abut the lower surface of the base plate." Thus, Claim 65 positively recites the

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intermediate support member includes a first portion that is disposed between the base plate and the template, a second portion that is inserted through an opening in the template, and the intermediate support member is adjustable to abut the lower surface of the base plate. The Hying patent does not teach, suggest or disclose an intermediate support member. Accordingly, Applicants believe that at least Claims 65-72 are patentable in view of the Hying patent.

In addition, Claim 73 provides “a first pair of openings disposed proximate the front portion of the base plate, the first pair of openings being separated by a distance; a second pair of openings disposed proximate the rear portion of the base plate, the second pair of openings being separated by a distance, the distance between the first pair of openings in the base plate being smaller than the distance between the second pair of openings in the base plate” and “a first pair of openings disposed proximate the front portion of the template, the first pair of openings being separated by a distance; a second pair of openings disposed proximate the rear portion of the template, the second pair of openings being separated by a distance, the distance between the first pair of openings in the template being smaller than the distance between the second pair of openings in the template.” Thus, Claim 73 positively recites that the distance between the first pair of openings in the base plate is smaller than the distance between the second pair of openings in the base plate and the distance between the first pair of openings in the template is smaller than the distance between the second pair of openings in the template. Claim 73 also provides “a support member connected to the base plate, the support member being disposed towards the front portion of the base plate and away from the rear portion of the base plate.” Therefore, Claim 73 also positively recites that the support member is disposed towards the front portion of the base plate and away from the rear portion of the base plate.

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The Hying patent, however, does not teach, suggest or disclose the distance between the first pair of openings in the base plate is smaller than the distance between the second pair of openings in the base plate; the distance between the first pair of openings in the template is smaller than the distance between the second pair of openings in the template; or that the support member is disposed towards the front portion of the base plate and away from the rear portion of the base plate. Consequently, Applicants believe that at least Claims 73-79 are patentable in view of the Hying patent.

Claim 80 provides “an intermediate support member including a first portion and a second portion, the first portion being disposed between the template and the base plate, the second portion being disposed within an opening in the template.” As discussed above, the Hying patent does not teach, suggest or disclose an intermediate support member. Therefore, Applicants believe that at least Claims 80-88 are patentable in view of the Hying patent.

Garhauer Reference

The Garhauer reference appears to disclose custom stanchion tubes with a welded base that are used in connection with sailboats. Applicants, however, are unsure that the Garhauer reference is a prior art reference under 35 U.S.C. § 102 or § 103. In addition, Applicants believe that stanchion tubes with welded bases used for sailboats are not reasonably pertinent to the particular problem with which the Applicants were involved. In this case, the claimed invention is directed towards a basketball goal system. One skilled in the art of basketball goal systems would not look to a customized stanchion tubes with welded bases for sailboats because they are in different fields, the Garhauer reference is not analogous art, and it is not reasonably pertinent to a basketball goal system.

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Nevertheless, Applicants believe that new Claims 65-88 are patentable in view of the Garhauer reference. For example, Claim 65 provides “an intermediate support member including a first portion disposed between the base plate and the template, the intermediate support member including a second portion inserted through an opening in the template, the intermediate support member being adjustable to abut the lower surface of the base plate.” Thus, Claim 65 positively recites the intermediate support member includes a first portion that is disposed between the base plate and the template, a second portion that is inserted through an opening in the template, and the intermediate support member is adjustable to abut the lower surface of the base plate. The Garhauer reference does not teach, suggest or disclose an intermediate support member. Accordingly, Applicants believe that at least Claims 65-72 are patentable in view of the Garhauer reference.

In addition, Claim 73 provides “a first pair of openings disposed proximate the front portion of the base plate, the first pair of openings being separated by a distance; a second pair of openings disposed proximate the rear portion of the base plate, the second pair of openings being separated by a distance, the distance between the first pair of openings in the base plate being smaller than the distance between the second pair of openings in the base plate” and “a first pair of openings disposed proximate the front portion of the template, the first pair of openings being separated by a distance; a second pair of openings disposed proximate the rear portion of the template, the second pair of openings being separated by a distance, the distance between the first pair of openings in the template being smaller than the distance between the second pair of openings in the template.” Thus, Claim 73 positively recites that the distance between the first pair of openings in the base plate is smaller than the distance between the second pair of openings in the base plate and the distance between the first pair of openings in the template is

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smaller than the distance between the second pair of openings in the template. Claim 73 also provides “a support member connected to the base plate, the support member being disposed towards the front portion of the base plate and away from the rear portion of the base plate.” Therefore, Claim 73 also positively recites that the support member is disposed towards the front portion of the base plate and away from the rear portion of the base plate.

The Garhauer reference, however, does not teach, suggest or disclose the distance between the first pair of openings in the base plate is smaller than the distance between the second pair of openings in the base plate; the distance between the first pair of openings in the template is smaller than the distance between the second pair of openings in the template; or that the support member is disposed towards the front portion of the base plate and away from the rear portion of the base plate. Consequently, Applicants believe that at least Claims 73-79 are patentable in view of the Garhauer reference.

Claim 80 provides “an intermediate support member including a first portion and a second portion, the first portion being disposed between the template and the base plate, the second portion being disposed within an opening in the template.” As discussed above, the Garhauer reference does not teach, suggest or disclose an intermediate support member. Therefore, Applicants believe that at least Claims 80-88 are patentable in view of the Garhauer reference.

CONCLUSION

In view of the foregoing, Applicant submits that Claims 65-88 are allowable over the cited references and are in condition for allowance. Accordingly, Applicant requests that a Notice of Allowance be promptly issued.

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If any further impediments to allowance of this application remain, the Examiner is cordially invited to contact the undersigned by telephone so that these remaining issues may be promptly resolved.

Respectfully submitted,

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Dated: 2-10-04

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